



**DEPARTMENT OF DEFENSE
FREEDOM OF INFORMATION DIVISION
1155 DEFENSE PENTAGON
WASHINGTON, DC 20301-1155**

JAN 25 2017

16-L-0690
16-cv-01256-EGS

Mr. Benjamin Good
American Civil Liberties Union Foundation
125 Broad Street, 18th Floor
New York, NY 10004

Dear Mr. Good:

The Department of Defense (DoD), Freedom of Information Division, Office of Litigation Support, is responding to your March 3, 2016, Freedom of Information Act (FOIA) request to the OSD/JS FOIA Requester Service Center. That request was assigned FOIA case number 16-F-0690, now FOIA litigation case number 16-L-0690 (civil action 16-cv-01256-EGS).

This interim response to your FOIA request responds on behalf of the Office of the Secretary of Defense. Please note that the original FOIA request has been narrowed to request documents created from January 1, 2009 to the present that contain the following five clarified categories of information:

- (1) policies, standards, and guidance related to prepublication review;
- (2) final legal analyses of past, present, or proposed prepublication review requirements;
- (3) statistics relating to prepublication review including but not limited to information documenting the total numbers of individuals who have submitted works for review, the total number of works submitted for review, the total number of submissions approved without change, the total number of submissions returned with proposed redactions or other modifications, the total number of pending submissions, and the duration of prepublication review processes;
- (4) titles, subject matters, dates of work submitted for prepublication review and outcomes of the prepublication review process. This prong can be satisfied with either of two subcategories of documents: (1) charts or summary documents or (2) final decision of officials conducting prepublication reviews. Subcategory (1) is preferred and if produced alleviates the need to produce records in category (2);
- (5) information about enforcement proceedings instituted or contemplated on the basis of violations of prepublication review requirements.

A search for records was conducted in the Defense Office of Prepublication and Security Review (DOPSR) with a search cut-off date for this response of October 27, 2016. This interim

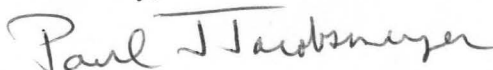
response addresses items #1, 2, 3, 4 and 5 of the modified request.

In response to item #1 of your request, all records responsive to that item are publicly available and are listed below:

- DoD Directive 5230.09 - <http://www.dtic.mil/whs/directives/corres/dir.html>
- DoD Instruction 5230.29 - <http://www.dtic.mil/whs/directives/corres/dir.html>
- DoD Instruction 5200.01 - <http://www.dtic.mil/whs/directives/corres/dir.html>
- DoD Directive 5230.25 - <http://www.dtic.mil/whs/directives/corres/dir.html>
- DoD Instruction 5230.24 - <http://www.dtic.mil/whs/directives/corres/dir.html>
- DoD Instruction 5400.04 - <http://www.dtic.mil/whs/directives/corres/dir.html>
- DoD Instruction 7650.02 - <http://www.dtic.mil/whs/directives/corres/dir.html>
- DoD Directive 5110.04 - <http://www.dtic.mil/whs/directives/corres/dir.html>
- Executive Order 13526 - <https://www.whitehouse.gov/the-press-office/executive-order-classified-national-security-information>
- Office of the Under Secretary of Defense for Intelligence Memo dated April 26, 2011 - [http://www.dami.army.pentagon.mil/site/infosec/docs/Pub/USD\(I\)%20Memo,%20Security%20and%20Policy%20Reviews%20of%20Articles,%20Manuscripts,%20Books,%20and%20other%20Media%20Prior%20to%20Public%20Release.pdf](http://www.dami.army.pentagon.mil/site/infosec/docs/Pub/USD(I)%20Memo,%20Security%20and%20Policy%20Reviews%20of%20Articles,%20Manuscripts,%20Books,%20and%20other%20Media%20Prior%20to%20Public%20Release.pdf)

In response to items #2 (final legal analyses) and #5 (information about enforcement proceedings), no records were located. In response to items #3 (statistics relating to prepublication review) and #4 (title, subject, dates of works submitted and outcome) we are partially answering these two items with the enclosed records. Please note that we have elected to respond to these items with charts/spreadsheets (486 pages) and are still processing additional records to be provided later. It was determined that certain information in the enclosed records is exempt from release under the FOIA and is withheld pursuant to 5 U.S.C. § 552. Specifically, information is withheld under FOIA exemption (b)(6) which pertains to information which constitutes a clearly unwarranted invasion of an individual's personal privacy. Appellate rights are moot as this request is currently in litigation.

Sincerely,



Paul J. Jacobsmeyer
Chief

Enclosure:
As stated